

## RESPONSE

1. In the November telephone conversation with the examiner, the applicant told the examiner that the applicant had two different applications that had Office Actions at the same time in 2002. The applicant mixed up the application numbers in the responses. This response is to the examiner's Office Action mailed 06/26/02, as stated in the Office Action mailed 11/01/06.
2. In the applicant's 11/01/06 response to the examiner's 06/26/02 Office Action, the applicant sent a check for one month extension, and agreement to the new claim renumbering. The applicant has amended the latest claims to meet the newest USPTO guidelines. The amended claims have been renumbered to the examiner's numbers as stated in the Detailed Action on page 2, and this response uses the new claim numbers.

### Claim Rejections 35 USC §112

3. **Claims 12-31 are rejected under 35 U.S.C. 112 as being indefinite...Claim 12, (1) the limitation "the bulk of the lower part" fails to clearly define the metes and bounds, thus renders the claim indefinite.** To meet the examiner's 112 objection, the applicant has amended claim 20b. The applicant changed "said rectangular face having the bulk of the lower part extended downward" to "said rectangular face having a singular extended tab on one edge of the long dimension".
4. **Claim 12, (2) the limitation "said top bend forming sheathing tabs" is indefinite for failing to clearly define how it is possible that one bend is able to form more than one tab.** The applicant respectfully requests that the examiner refer to the applicant's figure 4. This flat pattern layout shows that when the tool and die machine bends the sheathing tab 8A, both the left sheathing tab 8 and the right sheathing tab 9 will be formed. To make this more clear, the applicant has amended claim 20 by moving claim 20e into claim 20d. The amended claim now reads "said rectangular face having a

generally right angled bend on the side of the long dimension, opposite said extended tab, forming a plurality of sheathing tabs”.

5. **Claim 15, the limitation “most of the side edges of the top plates of the wall” is indefinite for failing to clearly define the metes and bounds of the claimed invention, it is not clear what the applicant is referring to.** The applicant respectfully requests that the examiner refer to the applicant’s figure 2. This figure shows that the extended tab 3 extends down over the side of the top plate A. Whereas the plate tabs 6 and 7 extend over the top of the top plate A. The applicant has narrowed claim 23 to add the trapezoidal shape of the extended tab. But to clear up and meet the 112 objection, the applicant has amended claim 24 to: “The apparatus of claim 20 wherein said extended tab of said rectangular face having a predetermined area and a plurality of nail holes as a fastening means to a side of the top plate of a wall, when mounted on a building.” This defines the metes and bounds to meet the 112 objection.
6. **Claim 16, “both plates of said top plate of the wall” lacks antecedent basis.** Claim 21 first states “a top plate of a wall”. Claim 24 now states “a side of the top plate”, since the side of the top plate hasn’t been brought up before. This meets the 112 objection.
7. **Claim 17, “said extended lower part of the long ends” lacks antecedent basis.** The applicant has amended claim 20b as “said rectangular face having an extended tab on one edge of the long dimension”. So amended claim 25 now states “and said extended tab on the long dimension”. The “extended tab” now has antecedent basis and meets the 112 objection.
8. **Claims 18, 19, and 21, it is not clear how applicant defines the “Axis” of the bend.** The applicant originally wanted the “axis” to define the “hinge line” of the bend. Since the applicant has defined this “hinge line” as “bend line” in the specification, the applicant has amended claims 26, 27, and 29 to state “bends”.

9. **Claim 21, it is not clear how it is possible for the axis of the plate tabs to be generally parallel to the rectangular face.** The applicant agrees, as it should have been perpendicular, not parallel. The applicant has amended claim 29 to change “parallel” to “perpendicular”.
10. **Claim 24, “said top plate” lacks antecedent basis.** Claim 21 first states “a top plate of a wall”.
11. **Claim 25, “said adjacent rafter, said top plate, and said roof sheathing” lacks antecedent basis.** Amended claim 21 first states “a top plate”. Amended claim 27 first states “neighboring rafter”. On the stated claim 33, the applicant has changed “said roof sheathing” to “bottom of a roof”.
12. **Claim 26, “said rectangular faces having the lower long side” should be “said rectangular faces each having the lower long side”.** The applicant agrees and has amended claim 34c to “said rectangular faces each having a singular tab on the long side of the bottom extended down”.
13. **Claim 27, “near mirror image” is vague, thus indefinite.** The applicant agrees and has amended claim 35 to “said left and right rectangular faces having approximate mirror image of each other”.

**Claim Rejections 35 USC §102**

14. **Claims 12-25 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,370,577 to Jonett et al.** Jonett discloses an apparatus for securing structural members of a building, Figs 2-3 comprising all the elements recited in the above listed claims and including a unitary body having a rectangular face with ventilation holes.. The applicant’s amended claim 20a states “a unitary body having a rectangular

face..." Jonett's figure 3 clearly shows two rectangular faces. The vented face plate 22, and the angled back plate 84.

15. **A plurality of right angled bends forming sheathing tabs 26, rafter tabs 32', plate tabs 46, wall tabs 72, and a lower long side 72 extended down...**The applicant's amended claim 20b states "a singular extended tab on one edge of the long dimension". Jonett's figure 2 clearly shows that the lower edge of the long dimension has two tie down straps 72 and 72'. Jonett's column 3, line 25-26 states "First and second stud tie down straps 72, 71 are joined to the lower side 28 of the face plate 22." Also, the applicant's amended claim 23 states "said extended tab of said rectangular face having a generally trapezoidal shape". Jonett's figure 2 shows both stud tie down straps 72 and 72' as having a rectangular shape.

The applicant's amended claim 20e states "said rectangular face having a generally right angled bend on the side opposite the extended side, forming a plurality of sheathing tabs". Jonett's figure 3 shows a generally right angled bend forming a singular rib 26, which is different than the applicant's twin sheathing tabs 8 and 9.

16. **Wherein each tab has a plurality of nail holes therein, the axis of said bend forming the sheathing tabs being generally parallel to the long dimension of the rectangular face,...**The applicant's amended claim 26 states "said sheathing tabs having said generally right angled bends generally parallel to the long dimension of said rectangular face, thereby placing said sheathing tabs generally perpendicular and adjacent to said rectangular face". Jonett's figure 3 clearly shows his top chord truss webs 46 and 46' as being bent generally perpendicular to his face plate 22. But they are bent away from the face 22, not adjacent to it like the applicant's sheathing tabs 8 and 9 are adjacent to the rectangular face 2.

Jonett's figure 2 shows the top of his face plate 22 having an upper rib 26. Jonett's specification states the upper rib 26 only once, in column 2, line 47. Jonett never states the rib's purpose, and it has no fasteners or fastener holes, but it is another physical difference. The applicant's figure 1 shows two tabs on the top of the face. The left and right sheathing tabs 8 and 9 have bolt holes 17 for tying into the roof. The applicant's amended claim 26 states: "said sheathing tabs each having a bolt hole as an attaching means to the underside of a roof". The applicant's sheathing tabs 8 and 9 on opposite ends of the top of the rectangular face 2 is physically different from Jonett's singular rib 26, plus, the applicant's sheathing tabs 8 and 9 have an important and never before used purpose.

17. **The axis of said bends forming said rafter tabs being generally parallel to the short dimension of the rectangular face, and the axis of said bends forming said plate tabs being generally parallel to the rectangular face.** Applicant's amended claim 33 states "said sheathing tabs, said rafter tabs, said plate tabs, said rectangular face, and said extended side of said rectangular face form a strong, generally box-shape connection between neighboring rafters, the top plate, and bottom of the roof when mounted on a building, thereby preventing uplift, thrusting, and lateral movement of the roof and the wall, as would occur during wind storms and seismic events." Referring to Jonett's figure 3, it can be seen that his first and second top chord truss webs 46 and 46' are bent out from the top of his truss chord flanges 32 and 32'. The applicant's rafter tabs 4 and 5 are bent in to form the strong box shape as stated in the applicant's amended claim 33.

#### Claim Rejections 35 USC §103

18. **Claims 26-31 are rejected under 35 USC 103(a) as being unpatentable over Jonett et al.** Jonett discloses an apparatus for securing structural members of a building, Figs 2-3 comprising all the elements recited in the above listed claims and including a unitary body having a rectangular face with ventilation holes, a plurality of right

angled bends forming sheathing tabs 26, rafter tabs 32', plate tabs 46, wall tabs 72, and a lower long side 72 extended down, wherein each tab has a plurality of nail holes therein, the axis of said bend forming the sheathing tabs being generally parallel to the long dimension of the rectangular face, the axis of said bends forming said rafter tabs being generally parallel to the short dimension of the rectangular face, and the axis of said bends forming said plate tabs being generally parallel to the rectangular face. The only difference being that Jonett does not disclose the apparatus being formed of two flat plates, with one of the plates having horizontal tracks with openings on one end and the other having runners with faces and arms.

It would have been obvious and well within the level of one skilled in the art to modify the apparatus of Jonett et al by having the apparatus being formed of two flat plates, with one of the plates having horizontal plates with openings on one end and the other plate having runners with faces and arms for the purpose of making the apparatus adjustable to different sizes. Jonett's apparatus has to be light-gauge to be bendable. Jonett's figure 4 shows his top chord truss webs 46 and 46' bent over a rafter. Jonett's specification states: "the truss chord webs 46, 46' are movable or bendable to better facilitate locating the top of the truss chord 12 below the webs 46, 46'. After the top truss chord 12 is positioned below the webs 46, and 46', they can be bent downwardly to overlie the tops of the particular top truss chords 12." from column 4, lines 5-10. If Jonett's apparatus can be bent by an installer, it cannot prevent hurricane or seismic damage. Therefore, the applicant's amended claim 39, which state wind and earthquake resistance, read over Jonett.

19. Since Jonett's apparatus has been shown to be bendable, and can simply be bent to fit, there is no need for an adjustable two-piece frieze board like the applicant's apparatus shown in figures 6 and 7 and claimed in amended claims 34-39. Since Jonett's apparatus can be bent, it would not be likely that anyone skilled in the art would think of making it strong and adjustable.

20. Referring to Jonett's figure 5, and column 2, lines 63-65, Jonett states "The upper edge 40, 40' is disposed in a plane which rises from the first side edge 30, 30' at an acute angle  $\alpha$ , as illustrated in Fig. 5." Therefore, his patent is indefinite. Jonett's figure 2 shows the top chord truss webs 46 and 46' on top of the roof rafters. Jonett's figure 4 shows the top chord truss webs 46 and 46' overlap each other on top of the roof rafter. With a double thickness of webs that are bent on to the rafter by a framer, sheets of roof sheathing would not be able to lie flat on the roof. Jonett's invention will not work, is inoperative, and should be construed very narrowly.
21. Since Jonett's top chord truss webs 46 and 46' are on top of the roof rafters, it would be impossible to install on an existing building like the applicant's two-piece invention. Since Jonett's apparatus can not fit on existing buildings, it would not be likely that anyone skilled in the art would think of making it able to fit existing buildings.
22. The applicant could not get another invention that prevents hurricane damage made in Hawaii, because there was no 100-ton press available for stamping 14-gauge steel. Jonett's apparatus is made from "light gauge steel using a pattern. An operator then uses a brake and /or clamps to form the appropriate bends in the stamped piece." from column 5, lines 16-18. Therefore, Jonett's apparatus was designed and patented to permit ventilation and maintain insulation in a desired position. Since it is so bendable by an installer, it could not provide any structural integrity to a building and could only be used for ventilation and holding back insulation.
23. No one skilled in the art had thought of how to make a frieze plate that was not bendable, but could still tie all the structural members together to prevent hurricane and earthquake damage. Until this invention, no one skilled in the art thought of how to tie the roof into the frieze plate. No one skilled in the art thought of making a strong I-beam shape against

the roof and wall (claim 31). No one had thought of how to form a strong box-shape between the roof sheathing, roof rafters, and top plate (claim 33).

24. **Conclusion:**

For all the reasons given above, applicant respectfully submits that the amended claims clear all 112 rejections, and define over the cited reference under Section 102. The claimed distinctions are of patentable merit under Section 103 because of the tremendous results provided for a homeowner against earthquake and wind damage. Accordingly, applicant submits that this application is now in full condition for allowance, which action applicant respectfully solicits. If the examiner agrees but does not feel that the present claims are technically adequate, applicant respectfully requests that the examiner write acceptable claims pursuant to MPEP 707.07(j).

Very respectfully,

  
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